

Amendment No. 1 to SB2113

Kelsey
Signature of Sponsor

AMEND Senate Bill No. 2113*

House Bill No. 2072

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 53-10-306, is amended by adding a new subdivision (a)(9) as follows and renumbering the existing subdivision as (a)(10):

(9) The judge of a drug court treatment program, created pursuant to title 16, chapter 22, that is participating in the pilot project pursuant to this act to the extent the information relates specifically to a current participant in the drug court treatment program. Any judge or personnel of a drug court treatment program receiving information from the database pursuant to this subdivision (a)(9) shall comply with the requirements of this subsection (a) and the following:

(A) Any judge of a participating drug court requesting information from the database shall submit an application to the board pursuant to subdivision (a)(9)(B) that must include acknowledgment by the district attorney general of the judge's judicial district that the judge is seeking information from the database on a current participant in the drug court treatment program;

(B) An application submitted by the judge of a drug court treatment program shall include:

(i) The applicant's name, title, agency, agency address, and the business email address;

(ii) The signatures of the judge and the district attorney general of the judicial district in which the judge has jurisdiction; and

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(iii) The names of any current participants in the drug court treatment program that the judge has a reasonable belief may not be in compliance with the guidelines or rules of participation in the drug court treatment program as they pertain solely to the participant's unauthorized use or misuse of controlled substances. Such information shall not be considered a public record as defined by § 10-7-503; and

(C) The board shall, as part of the duty to maintain the database pursuant to § 53-10-305(e), receive the authorized application sent by the judge of the participating drug court treatment program pursuant to this subsection (a);
or

SECTION 2. Tennessee Code Annotated, Section 53-10-306, is further amended by deleting subsection (c) in its entirety and substituting the following:

(c) The board of pharmacy shall by rule, establish a fee for providing information to a law enforcement agency, judicial district drug task force, TBI or a judge of a drug court treatment program pursuant to this section. In determining the fee and type of fee to be charged, the board shall consider options such as an annual fee or a per use, incremental cost basis fee.

SECTION 3. Tennessee Code Annotated, Section 53-10-306, is further amended by adding the following new subdivisions to subsection (e):

(3) Information obtained from the database by the judge of a drug court treatment program may be shared with personnel of a drug court treatment program.

For the purposes of this subdivision (e)(3), “personnel of a drug court treatment program” includes a judge of a drug court and any person employed by the drug court and designated by the judge to require access to the information in order to efficiently administer the drug court treatment program.

(4) Any information obtained from the database that is sent to a judge of a drug court treatment program shall also be sent to the district attorney general of the judicial district in which the judge has jurisdiction.

SECTION 4. Tennessee Code Annotated, Section, 53-10-306, is further amended by redesignating subsection (f) as subdivision (f)(1) and adding a new subdivision (f)(2) as follows:

(2) To ensure the privacy and confidentiality of patient records, information obtained from the database by a drug court treatment program shall be retained by the program director of the drug court treatment program. The information obtained from the database shall not be made a public record, notwithstanding the use of the information in court for prosecution purposes.

SECTION 5. Tennessee Code Annotated, Section 53-10-306, is further amended by deleting subsection (i) in its entirety and substituting the following:

(i) If a law enforcement officer, judicial district drug task force agent, TBI agent or a judge of a drug court treatment program has probable cause to believe, based upon information received from a database request, that a prescriber or pharmacist may be acting or may have acted in violation of the law, the officer, agent or judge shall consult with the board of pharmacy inspector's office if a pharmacist or the health related boards' investigations unit if a prescriber.

SECTION 6. Tennessee Code Annotated, Section 53-10-306, is further amended by adding a new subsection (n) as follows:

(n) Prohibited access to, an inappropriate request for, or illegal disclosure of information from the database by a judge of a drug court treatment program shall be

considered a violation of the canons of the code of judicial conduct, including Rules 1.2, 1.3 and 3.5.

SECTION 7. This act shall be constituted as a pilot project and be limited to three (3) judicial districts as selected by the commissioner of health. Upon selecting the participating districts, the controlled substance database committee or the committee's designee shall report the commissioner's selection to the health committee of the house of representatives and the health and welfare committee of the senate.

SECTION 8. This act shall take effect July 1, 2014, and expire June 30, 2016, the public welfare requiring it.